IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07/08/2003

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THE HONOURABLE MR.JUSTICE M. CHOCKALINGAM

CRL. APPEAL NO.418 OF 1996

Karuppasamy .. Appellant

-Vs-

State
through the Sub Inspector of Police
Sriviliputhur Town
Police Station .. Respondent

This criminal appeal is preferred under Section 374 IPC against the judgment of the learned Sessions Judge, Kamarajar District in S.C.No.239 of 1990 on 17.3.1995.

!For Appellant : Mr.K.V.Shanmuganathan

^For Respondent : Mr.V.Jaya Prakash Narayan
Govt. Advocate (Crl. Side)

:JUDGMENT

The sole accused, who stood charged, tried, found guilty under Section 489(c) IPC and sentenced to undergo five years RI with a fine of Rs.1000/- in default to undergo SI for two months has brought forth this appeal.

2. The short facts necessary for the disposal of this appeal are as follows:
a) On 15.6.1989 at about 9.00 a.m., P.W.3 Murugesan Sub Inspector of Police, Srivilliputhur along with his team visited the bus stand, where the appellant/A1 and the other accused were standing. On seeing the police personnel, both the accused attempted to run from that place. They were caught by the police and enquired. The accused were having yellow colour cloth bag and when the same was searched, the first accused was found to be in possession of 774 forged notes of Rs.20/- denomination and the same were packed in eight bundles, which was marked as M.O.1 series. A1 was also having 49 original notes of Rs.100 /- and 5 original notes of Rs.20/-. When interrogated about the same, he was unable to give proper reply. The second

accused was having 705 forged notes of Rs.20/- and the same was packed in 7 bundles, which was marked as M.O.2 series. When questioned about the same, A2 replied that he got the notes from unknown person in the State of Kerala and the notes were recovered under Ex.P.1 Mahazar where P.W.1 Selvanathan, the Village Administrative Officer has signed as witness. P. W.3 brought the accused and the counterfeit currencies to the Police Station and registered a case in Crime No.509 of 1989 under Section 40 9(b) and (c) IPC.

b) P.W.2 Malliga, who was working as Chief Judicial Magistrate No.2, Srivilliputhur, on receipt of requisition Ex.P.2 from P.W.3, sent the seized articles to the chemical analysis along with the covering letter Ex.P.3. The Analyst report Ex.P.4 was received on 28.8.1990. P.W>2 sent Ex.P.5 F.I.R. to the Crime Branch Sub Inspector Rajamani for further investigation. He examined the witnesses and filed a charge sheet. Since the second accused

died even before the commencement of trial, a memo was filed before the trial court and the same was recorded. Hence, the trial was proceeded against the first accused.

3. In order to prove the charges levelled against the appellant, the prosecution examined 3 witnesses and marked 5 exhibits and 2 M.Os. On completion of the evidence on the side of the prosecution, the accused was questioned under Section 313 of Cr.P.C. as to the incriminating circumstances found in the evidence of the prosecution witnesses, which he flatly denied as false. No defence witness was examined and no materials have been produced on the side of the defence. The trial court on consideration of the rival submissions made and scrutiny of the materials available found the accused guilty under Section 489(c) IPC and sentenced to undergo imprisonment as stated above.

4. Arguing for the appellant, the learned counsel Mr.K.V. Shanmuganathan inter-alia made the following submissions for consideration by this Court.

The prosecution has not proved by sufficient evidence that the appellant/accused was in possession of M.O.1 what was produced before the Court. P.W.1 was made as witness to speak for the prosecution and no independent witness has been examined. No similarity or resemblance was noticed in M.O.1 notes, and hence, it cannot be termed as counterfeit currencies warranting application of Section 489(c) IPC. In the absence of sufficient evidence, the lower court has found the accused guilty. Hence, the appellant is entitled for an acquittal in the hands of this Court.

5. Strongly opposing all the contentions put forth by the appellant's side, Mr.V.Jaya Prakash Narayan, the learned Government Advocate (Criminal side) would submit that the prosecution by sufficient evidence has proved that the appellant was in possession of M.O.1 (series), which were produced before the Court; that on requisition, these were sent for chemical analysis and report has also been received, which was marked as Ex.P.4 wherein they were found to be forged, and thus, they were proved to be counterfeit currencies,

and the lower court was perfectly correct in recording a conviction under Section 489(c) IPC against the accused, and hence, the judgment of the lower court has got to be affirmed.

6. After careful appraisement of the entire evidence available and consideration of the rival submissions made, this Court has to necessarily affirm the judgment of conviction of the appellant by the lower court.

7. As seen above, P.W.3 Sub Inspector of Police visited the bus stand along with his team and he found the appellant and the second accused under suspicious circumstances. They attempted to run. Hence there arose a necessity to stop them and make a search. From the evidence of P.W.1, the Village Administrative Officer, it would be clear that a search was made and it was found that A1 was having a bag in his hand. When search was conducted, it was found that the first accused was having 774 forged notes of Rs.20/- denomination, which was packed in eight bundles and the same was marked as M.O.1 series. The second accused was also having counterfeit currencies, which was recovered and marked as M.O.2 series. All the counterfeit currencies were seized under Ex.P.1 Mahazar in the presence of witnesses. Both the accused were arrested. The seized counterfeit currencies were produced before the Judicial Magistrate, No.2, Srivilliputhur the very day. The appellant and the other accused were also produced before the Court and they were remanded to the judicial custody. On requisition made by the police agency, the counterfeit currencies were sent for chemical analysis by the Judicial Magistrate. From the analyst report Ex. P.4 it would be clear that all the currency notes were forged notes and counterfeit currencies. Ex.P.4 report reads as follows:

"The notes bear an imitation of figure "20" in middle, a watermark window on left and Ashoka emblem on right. The texts of notes have been disfigured. The referred notes are forged notes of Rs.20/- deno."

The report would clearly indicate that what was seized from the accused was counterfeit currencies, which would satisfy the ingredients under Section 489(c) IPC. In view of the report of the analyst as found in Ex.P.4, the lower court was perfectly correct in recording a conviction against the accused under Section 489(c) IPC.

8. Coming to the question of punishment, the lower court has awarded punishment of five years RI with a fine of Rs.1000/- in default to undergo SI for 2 months to the accused. Taking into consideration the facts and circumstances of the case wherein the counterfeit currencies as referred to above were seized from the appellant, the punishment awarded by the lower court does not require any interference. Hence, this criminal appeal is dismissed confirming the judgment of the lower court. The Sessions Judge shall take steps to commit the accused/appellant herein to prison, if he is on bail, to undergo the remaining period of sentence.

Index : Yes
Internet : Yes

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To

1. The District and Sessions Judge, Kamarajar District at Srivilliputhur
2. The Judicial Magistrate, No.I, Srivilliputhur
3. The Judicial Magistrate, No.I, Srivilliputhur through the Chief Judicial Magistrate, Srivilliputhur
4. The Superintendent, Central Prison, Madurai
5. The Public Prosecutor, High court, Madras
6. The Dy. Inspector General of Police, Chennai-4
7. Mr.V.Jaya Prakash Narayan, Govt. Advocate(Crl. Side) High Court, Madras
8. The Sub Inspector of Police Srivilliputhur Town Police Station